

Office of Personnel Management

§ 800.503

(2) Nonrenewal of the MSPP contract; or

(3) Termination of the MSPP contract.

(b) *Request for reconsideration and/or hearing.* (1) An MSPP issuer with a right to request reconsideration specified in paragraph (a) of this section may request a hearing in which OPM will reconsider its determination to impose a compliance action.

(2) A request under this section must be in writing and contain contact information, including the name, telephone number, email address, and mailing address of the person or persons whom OPM may contact regarding a request for a hearing with respect to the reconsideration. The request must be in such form, contain such information, and be submitted in such manner as OPM may prescribe.

(3) The request must be received by OPM within 15 calendar days after the date of the MSPP issuer's receipt of the notice of compliance action. The MSPP issuer may request that OPM's reconsideration allow a representative of the MSPP issuer to appear personally before OPM.

(4) A request under this section must include a detailed statement of the reasons that the MSPP issuer disagrees with OPM's imposition of the compliance action, and may include any additional information that will assist OPM in rendering a final decision under this section.

(5) OPM may obtain additional information relevant to the request from any source as it may, in its judgment, deem necessary. OPM will provide the MSPP issuer with a copy of any additional information it obtains and provide an opportunity for the MSPP issuer to respond (including by submitting additional information or explanation).

(6) OPM's reconsideration and hearing, if requested, may be conducted by the Director or a representative designated by the Director who did not participate in the initial decision that is the subject of the request for review.

(c) *Notice of final decision.* OPM will notify the MSPP issuer, in writing, of OPM's final decision on the MSPP issuer's request for reconsideration and the specific reasons for that final deci-

sion. OPM's written decision will constitute final agency action that is subject to review under the Administrative Procedure Act in the appropriate U.S. district court. Such review is limited to the record that was before OPM when it made its decision.

Subpart F—Appeals by Enrollees of Denials of Claims for Payment or Service

§ 800.501 General requirements.

(a) *Definitions.* For purposes of this subpart:

(1) *Adverse benefit determination* has the meaning given that term in 45 CFR 147.136(a)(2)(i).

(2) *Claim* means a request for:

(i) Payment of a health-related bill; or

(ii) Provision of a health-related service or supply.

(b) *Applicability.* This subpart applies to enrollees and to other individuals or entities who are acting on behalf of an enrollee and who have the enrollee's specific written consent to pursue a remedy of an adverse benefit determination.

§ 800.502 MSPP issuer internal claims and appeals.

(a) *Processes.* MSPP issuers must comply with the internal claims and appeals processes applicable to group health plans and health insurance issuers under 45 CFR 147.136(b).

(b) *Timeframes and notice of determination.* An MSPP issuer must provide written notice to an enrollee of its determination on a claim brought under paragraph (a) of this section according to the timeframes and notification rules under 45 CFR 147.136(b) and (e), including the timeframes for urgent claims. If the MSPP issuer denies a claim (or a portion of the claim), the enrollee may appeal the adverse benefit determination to the MSPP issuer in accordance with 45 CFR 147.136(b).

§ 800.503 External review.

(a) *External review by OPM.* OPM will conduct external review of adverse benefit determinations using a process similar to OPM review of disputed claims under 5 CFR 890.105(e), subject

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to the standards and timeframes set forth in 45 CFR 147.136(d).

(b) *Notice.* Notices to MSP enrollees regarding external review under paragraph (a) of this section must comply with 45 CFR 147.136(e), and are subject to review and approval by OPM.

(c) *Issuer obligation.* An MSPP issuer must pay a claim or provide a health-related service or supply pursuant to OPM's final decision or the final decision of an independent review organization without delay, regardless of whether the plan or issuer intends to seek judicial review of the external review decision and unless or until there is a judicial decision otherwise.

EFFECTIVE DATE NOTE: At 78 FR 15587, Mar.11, 2013, §800.503 was added, effective when the Office of Management and Budget approves the information collection elements.

§ 800.504 Judicial review.

(a) OPM's written decision under the external review process established under §800.503(a) will constitute final agency action that is subject to review under the Administrative Procedure Act in the appropriate U.S. district court. A decision made by an independent review organization under the

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process established under §800.503(a) is not within OPM's discretion and therefore is not final agency action.

(b) Judicial review under paragraph (a) of this section is limited to the record that was before OPM when OPM made its decision.

Subpart G—Miscellaneous

§ 800.601 Reservation of authority.

OPM reserves the right to implement and supplement these regulations with written operational guidelines.

§ 800.602 Consumer choice with respect to certain services.

(a) *Assured availability of varied coverage.* Consistent with §800.104, OPM will ensure that at least one of the MSPP issuers on each Exchange in each State offers at least one MSP that does not provide coverage of services described in section 1303(b)(1)(B)(i) of the Affordable Care Act.

(b) *State opt-out.* An MSP may not offer abortion coverage in any State where such coverage of abortion services is prohibited by State law.

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